

Application No. 10/717,792
Amendment dated October 4, 2004
Reply to Office Action of June 7, 2004

REMARKS/ARGUMENTS

Responsive to the Official Action mailed June 7, 2004, applicants have amended the claims of their application in an earnest effort to place this case in condition for allowance. Specifically, independent claims 1 and 2 have been amended. Reconsideration is respectfully requested.

As discussed in the Specification, the present invention is directed to a unique nonwoven fabric construct having a three-dimensional image or pattern, thereby defining foreground and background regions of fabric. In order to impart unique functional characteristics to the patterned or imaged fabric construct, the present invention contemplates the provision of one or more performance or aesthetic-enhancing additives be provided on the foreground region, and that one or more performance or aesthetic-enhancing additives be provided on the background region, wherein the foreground and background additives are dissimilar from one another.

In the Action, the Examiner has rejected the pending claims under 35 U.S.C. §103, with principal reliance upon U.S. Patent No. 5,906,786, to James et al., in view of U.S. Patent No. 5,916,659, to Koerber et al., U.S. Patent No. 4,693,920, to Agarwall et al., or U.S. Patent No. 4,428,999, to George et al. However, it is respectfully maintained that even when combined, these references clearly fail to teach or suggest applicants' invention as claimed, and accordingly, the Examiner's rejection is respectfully traversed.

Applicants are generally familiar with the teachings of James et al., which relates to formation of three-dimensionally imaged or patterned fabrics of the type that can be employed for practicing the present invention. Applicants note that U.S. Patent No. 5,098,764,

incorporated by reference at page 3 of their application, is specifically referenced in the "Background" of the James et al. patent.

As acknowledged by the Examiner, "James et al. fail to disclose that additives are added to the raised background portions." This deficiency in the teachings of the principle James et al. patent can not be minimized. There was simply no recognition at the time of the James et al. patent of the desirability of providing *dissimilar additives* to the background and foreground regions of a three-dimensionally imaged nonwoven fabric.

In view of this clear deficiency in the teachings of the principle James et al. patent, the secondary references relied upon by the Examiner in her rejection must be carefully considered. However, it is respectfully maintained that the references clearly fail to teach or suggest modification of the James et al. reference to arrive at applicants' unique nonwoven fabric construct.

As noted by the Examiner, the Koerber et al. reference "discloses composites comprising a nonwoven binder wherein, as shown in claim 8, the nonwoven is between a fluoropolymeric portion and a non-fluoropolymeric portion. More specifically, Koerber et al. contemplates:

It has been found that, where a fluoropolymeric component and a non-fluoropolymeric component are thermally non-adherent to each other . . . a composite of such components possessing good peel-adhesion behavior can be achieved by using a non-woven, fibrous binder physically embedded in, and possessing fibers extending into both fluoropolymeric and non-fluoropolymeric components. (Column 2, lines 66 *et seq.*)

Clearly, the Koerber et al. patent principally concerns providing an arrangement for bonding polymeric components which are otherwise non-thermally bondable, with no teaching

or suggestion whatsoever of providing dissimilar additives for foreground and background regions of a three-dimensionally imaged nonwoven fabric.

The Agarwal et al. reference is believed to be similarly deficient in overcoming the shortcomings in the principle James et al. patent. As noted by the Examiner, Agarwal et al. "disclose a nonwoven substrate having an adhesive coating on one side of the substrate and a resin coating on the other side of the substrate."

While applicants concede that this is a fair characterization of the teachings of Agarwal et al., it is respectfully maintained that this reference clearly fails to teach or suggest a modification of the principal James et al. patent, wherein a three-dimensionally imaged nonwoven fabric construct having background and foreground regions is provided with dissimilar additives on these regions. As noted in Agarwal et al.:

The adhesive coating or layer 14 is placed on the surface of one side of the substrate. This adhesive layer must be capable of performing under the extreme conditions of high temperature and still be solvents, fuels, and lubricating fluids resistant. (Column 2, lines 28 *et seq.*)

Agarwal et al. contemplates that a pressure-sensitive material be formed which is resistant to a particular environment, "while at the same time being printable by impact and non-impact printing methods (column 2, lines 1-2). Thus, a resin coating 16, applied to the *opposite surface* of the substrate 12 is selected so as to "be capable of being printed upon by impact and laser printing methods (column 2, lines 55-56). Clearly, nothing in this reference would teach or suggest the application of dissimilar additives *to the same expansive surface* of a three-dimensionally imaged nonwoven fabric construct, in accordance with the presently pending claims.

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The George et al. reference is likewise deficient in overcoming the shortcomings in the teachings of James et al. As noted by the Examiner, George et al. "disclose a nonwoven fabric having a vapor barrier coating on one side of the fabric and refractory coating on the other side of the fabric." This reference contemplates that the disclosed compositions "exhibit superior flame and heat-resistance and superior dielectric properties in high moisture environments" (Abstract). Again, there is no teaching or suggestion in this reference which would lead one skilled in the art to modify the principal James et al. patent to provide background and foreground regions, on the same expansive surface, of a nonwoven fabric construct with dissimilar additives.

Moreover, there is clearly no teaching or suggestion in any of the cited references of providing a foreground region of a three-dimensionally imaged nonwoven fabric with one or more additives *only applied to the foreground region*.

Applicants respectfully refer to M.P.E.P. Section 2143.01 which addresses the requirements for formulating a proper rejection under 35 U.S.C. §103, and which specifically admonishes "the fact that the references can be combined or modified is not sufficient to establish *prima facie* obviousness (citations omitted), and that the "fact that the claimed invention is within the capabilities of one of ordinary skill in the art is not sufficient by itself to establish *prima facie* obviousness" (citations omitted).

In view of the foregoing, formal allowance of claims 1 and 2 is believed to be in order and is respectfully solicited. Should the Examiner wish to speak with applicants' attorneys, they may be reached at the number indicated below.

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The Commissioner is hereby authorized to charge any additional fees which may be required in connection with this submission to Deposit Account No. 23-0785.

Respectfully submitted,

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I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage at First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on **October 4, 2004**.

